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Paper 1  
DECLARED 26 June 2009

UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,702 (RT)  
(From Technology Center 1600)

SMITHKLINE BEECHAM CORPORATION  
(US 6,743,604),<sup>1</sup>  
Junior Party,

v.

ZENYTH OPERATIONS PTY. LTD.  
(09/051,843),<sup>2</sup>  
Senior Party.

DECLARATION - BD.R. 203<sup>3</sup>

By RICHARD TORCZON, *Administrative Patent Judge*.

A. DECLARATION OF INTERFERENCE

An interference is declared pursuant to 35 U.S.C. 135(a). Details of the application, patent, count, and claims designated as corresponding to the count appear under headings E and F.

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<sup>1</sup> Dkt. # 1430-238.

<sup>2</sup> Dkt. # 11373.

<sup>3</sup> "Bd.R. x" may be used to abbreviate "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

**B. DESIGNATION TO MANAGE**

Administrative Patent Judge Richard Torczon has been designated to manage the interference. Bd.R. 104(a).

**C. STANDING ORDER**

A copy of the Standing Order (SO, Paper 2) accompanies this declaration. The Standing Order applies to this contested case.

**D. CONFERENCE CALL TO SET DATES**

A telephone conference call to set dates for action in this contested case is scheduled for **10 a.m. (Eastern) on 20 August 2009**. (The Board will initiate the call.)

No later than **18 August 2009**, each party shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204; SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

A sample schedule for taking action during the motion phase appears as Form 2 in the Standing Order. The parties are encouraged to discuss the schedule prior to the conference call and to agree on dates for taking action. A typical motion period lasts approximately eight (8) months. A party requesting more or less time should be prepared to justify the request.

**E. THE PARTIES TO THIS INTERFERENCE***Junior Party*

Patent: US 6,743,604, granted 1 June 2004 (09/545,002)

Title: Substances and their uses<sup>4</sup>

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<sup>4</sup> This title falls well short of the requirement that the title be as "specific as possible." 37 C.F.R. § 1.72(a).

Inventors: Jean-Yves Bonnefoy of Saint Julien-en-Genevois,  
France, and Jean-François Gauchat of Geneva,  
Switzerland

*Senior Party*

Application: 09/051,843, filed 29 June 1998

Title: Novel haemopoietin receptor and genetic sequences  
encoding same

Inventors: Tracy Willson of North Balwyn, Nicos A. Nicola of  
Mont Albert, Douglas J. Hilton of Warrandyte,  
Donald Metcalf of Balwyn, and Jian Guo Zhang of  
Hoppers Crossing, all of Australia

F. COUNTS AND CLAIMS OF THE PARTIES

*Count 1*

An isolated nucleic acid molecule of US 6,743,604 claim 1 or of  
09/051,843 claim 2.

The claims of the parties are:

Smithkline Beecham: 1-9

Zenyth Operations: 1, 2, 7, 10, 25, 28, 29, 37, 43, 44, 47-49, 53,  
and 54.

The claims corresponding to Count 1: All

The benefit accorded for Count 1:

Smithkline Beecham: 09/545,002, filed 6 April 2000

08/969,125, filed 12 November 1997

GB 9625899, filed 13 December 1996

Zenyth Operations: 09/051,843, filed 29 June 1998

PCT/AU96/00668, filed 23 October 1996

G. HEADING TO BE USED ON PAPERS;  
EXHIBIT NUMBERS

Addendum 1 provides the heading that shall be used on all papers filed in the contested case. See SO ¶ 106.1.1.

The range of exhibit numbers is assigned as follows (Bd.R. 154(c)(1); SO ¶ 154.2.1):

Zenyth Operations: 1001-1999.

Smithkline Beecham: 2001-2999.

H. ORDER FORM FOR REQUESTING FILE COPIES

When requesting copies of files, use of Addendum 2 (SO Form 4) will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

Attachment: Pending 09/051,843 application claims.<sup>5</sup>

Enclosure: Copy of Standing Order (Paper 2)

cc:

Gary Tanigawa, Nixon & Vanderhye, P.C., Arlington, Virginia.

Xiaochun Zhu, Scully, Scott, Murphy & Presser, P.C., Garden City, New York.

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<sup>5</sup> For a United States patent or published application listed in this paper, see <http://patft.uspto.gov/>; see also <http://portal.uspto.gov/external/portal/pair> for prosecution histories available to the public.

ADDENDUM 1: PAPER HEADING

Filed on behalf of: [Name of Party]

Paper No. [Leave blank]

By:

[Name of lead counsel

Name of backup counsel

Street address

City, State, and ZIP Code

Tel:

Fax:

]

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TITLE OF PAPER

ADDENDUM 2: FILE COPY REQUEST  
Patent Interference No. 105,702

Attach a copy of sections E and F of this declaration to this request.  
On the copy, circle each patent and application that you are requesting.  
Include the information indicated below to facilitate processing of this request.

Charge fees to:

1. USPTO Deposit Account No. \_\_\_\_\_

2. Complete delivery address, including street, city, state, ZIP code:

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3. Telephone, including area code: \_\_\_\_\_

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